

CUMULATIVE DIGEST

CH. 28 IMMUNITY

§28

People v. Ousley, 235 Ill.2d 299, 919 N.E.2d 875 (2009)

1. 725 ILCS 5/106-2.5, which provides that on the State's motion the trial court "shall" grant use immunity to a witness, imposes a mandatory obligation on the part of the trial court to grant a State motion that is in proper form. The legislature's use of the word "shall" generally indicates an intent to impose a mandatory obligation, and the Court found "no reason to ascribe a different meaning to the term in this case."

The Court also noted that the transactional immunity statute (725 ILCS 5/1-6-1) states that the trial court "may order" that a material witness receive transactional immunity, further indicating an intention to establish a different rule for motions to grant use immunity.

The court also noted that any potential **Bruton** or **Crawford** issues which might arise if the immunized witness continues to refuse to testify will not become "ripe" for decision until the witness refuses to testify.

2. The court rejected defendant's argument that the State's motion to grant use immunity was not in proper form because it failed to set forth any terms or specifics of the proposed testimony. The court found that the use immunity statute imposes no obligation to "detail the testimony [the State] intends to elicit."

3. See also **APPEAL**, §2-6(a) & **STATUTES**, §48-1.

The order denying the State's motion to grant use immunity was reversed, and the cause was remanded for further proceedings.

[Top](#)